

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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JEFFREY HERMAN,

Plaintiff,

-against-

THE CITY OF NEW YORK, "JOHN DOE" and  
"RICHARD ROE", fictitious names, the true names,  
being unascertained at present,

Defendants.

**STIPULATION AND  
ORDER OF  
SETTLEMENT AND  
DISMISSAL**

05 CV 4314 (HB)

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**WHEREAS**, plaintiff commenced this action by filing a complaint on or about May 2, 2005, alleging that defendants violated plaintiff's federal civil and state common law rights; and

**WHEREAS**, defendants have denied any and all liability arising out of plaintiff's allegations; and

**WHEREAS**, the parties now desire to resolve the issues raised in this litigation, without further proceedings and without admitting any fault or liability;

**NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED**, by and between the undersigned, as follows:

1. The above-referenced action is hereby dismissed, with prejudice, and without costs, expenses, or fees in excess of the amount specified in paragraph "2" below.
2. Defendant City of New York hereby agrees to pay plaintiff the sum of One Thousand Dollars (\$1000.00) in full satisfaction of all claims, including claims for costs, expenses and attorney fees. In consideration for the payment of this sum, plaintiff agrees to

dismissal of all the claims against the individually named defendants; and to release all defendants and any present or former employees and agents of the City of New York, and the City of New York from any and all liability, claims, or rights of action arising from and contained in the complaint in this action, including claims for costs, expenses and attorney fees.

3. Plaintiff shall execute and deliver to defendants' attorney all documents necessary to effect this settlement, including, without limitation, a General Release based on the terms of paragraph 2 above and an Affidavit of No Liens.

4. Nothing contained herein shall be deemed to be an admission by any of the defendants that they have in any manner or way violated plaintiff's rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules or regulations of the United States, the State of New York, or the City of New York or any other rules, regulations or bylaws of any department or subdivision of the City of New York. This stipulation shall not be admissible in, nor is it related to, any other litigation or settlement negotiations.

5. Nothing contained herein shall be deemed to constitute a policy or practice of the City of New York or the New York City Department of Correction.

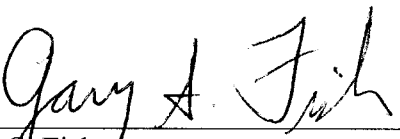
6. This Stipulation and Order contains all the terms and conditions agreed upon by the parties hereto, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation and Order regarding the subject

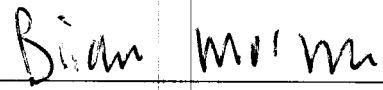
matter of the instant proceeding shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

Dated: New York, New York  
October 24, 2005

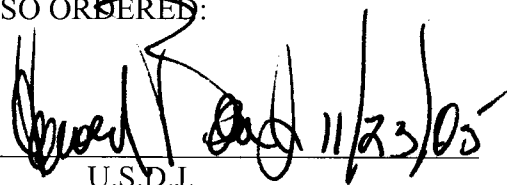
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By:   
\_\_\_\_\_  
Gary S. Fish  
Attorney for Plaintiff

By:   
\_\_\_\_\_  
Brian Morgan (BM8799)  
Assistant Corporation Counsel

SO ORDERED:

  
\_\_\_\_\_  
U.S.D.J.